

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROGER R. CRANE, JR,

Plaintiff,

- vs -

POETIC PRODUCTS LIMITED,

Defendant.

Case No. 07 Civ. 7063 (BSJ) (FM)

POETIC PRODUCTS LIMITED,

Counterclaimant,

**DECLARATION OF PLAINTIFF
COUNTERCLAIM-DEFENDANT
ROGER R. CRANE, JR.**

- vs -

ROGER R. CRANE, JR,

Counterclaim Defendant.

ROGER R. CRANE JR. declares under declare under penalty of perjury that the following is true and correct:

BACKGROUND

1. I am a partner in the New York office of Nixon Peabody LLP, and the author of the play *The Last Confession*. I submit this Declaration in support of Plaintiff's Motion For Summary Judgment on Plaintiff's Declaratory Judgment Claim and in Support of Plaintiff's Motion to Dismiss the Counterclaims or, in the Alternative, for Summary Judgment on the Counterclaims.

THE PLOT AND THEMES OF *THE LAST CONFESSION*

2. This lawsuit concerns my play, *The Last Confession*, which I wrote in 1997.

3. Although I started the journey thinking that I would write a murder mystery, I ended up not writing it as such, as the play is inconclusive about whether John Paul I was murdered.

4. The principal character in the play is Cardinal Benelli. The general story line of the play is the struggle for power between the liberal cardinals trying to implement the reforms of The Second Vatican Council and the reactionary cardinals who opposed them and ultimately won.

5. The themes woven through the play are multiple. *The Last Confession* examines the dilemma created by the exercise of power by people in the Vatican as opposed to the simple life of Christ. The play asks “Where is the line between divine providence and human intervention?” as Cardinal Benelli anguishes over his sense of guilt for having engineered the election of John Paul I.

6. Ultimately, the play is about Cardinal Benelli’s loss of faith (a complete fiction), his search for God, and his ultimate redemption.

The story line is as follows:

- A. Benelli the night he dies forces a confessor to come and hear his confession by threatening to publish a written confession.
- B. The confession turns out to be about his guilt over the death of John Paul I.
- C. The play is then told in a series of flash backs. They recount:
 - a. the divisions in the Church under Pope Paul VI.
 - b. Cardinal Felici’s offer to make Benelli, pope.
 - c. Benelli’s exile to Florence.
 - d. Benelli’s return to Rome and how he engineers the election of John Paul I.

- e. John Paul I's reforms and how they offended the Curia.
- f. The Church's misrepresentations about his death and refusal to do an autopsy.
(Widely reported)
- g. An investigation into the death.
- h. Benelli's efforts to become the next pope.
- i. And, finally, Benelli's ultimate confrontation with the confessor, who turns out to be John Paul II. In this confrontation he tries to convince John Paul II to change the direction he has chosen to take the Church. Benelli fails but obtains redemption by finding God. Of course this scene as well as all of the scenes between Benelli and the confessor which run throughout the play are fictional.

7. In short, *The Last Confession* is a work of fiction based on widely reported historical facts.

THE LAST CONFESSION MAKES IT TO THE STAGE

8. I shopped my script around everywhere, in the U.S. as well as in England, but no one was interested. It was a play about religion, which I was told that no one would see, and a play with too many characters, which I was told was "impossible to produce." At that point, I could not even get an agent.

9. In 1998, I managed to interest Duncan Weldon, a well-known English producer. From about 1998 to 2005, Duncan sporadically tried to garner interest in *The Last Confession*. But we could not find a lead actor to play Cardinal Benelli. The script had even been sent to David Suchet in about 2001 or 2002, but at that point he was not interested.

10. Finally, in late 2005 or early 2006, almost a decade after I began to conceive of the idea for my play, I met a Hollywood casting director at a New York movie awards party (I

was invited by one of my clients). I mentioned my play to her, and being Catholic, she asked to read it. She did so and told me that she loved it, and said that she thought that David Suchet would be perfect. She called him and sent him a draft. Around February or March of 2006, Suchet called me and said that he liked the script and wanted to do the play.

11. I called Weldon with the news, "I've got David Suchet." From there, the rest fell into place. *The Last Confession* opened at the Chichester Theatre in Chichester, England, in end of April 2007. Many London theatre critics came to the show, and for the most part, gave *The Last Confession* very fine reviews. Based on that, we toured for a couple of cities, and took the production to London at the end of June 2007 for a scheduled limited run through September 15, 2007.

POETIC PRODUCTS ACCUSES CRANE OF INFRINGEMENT

12. I have discovered the hard way that with success, comes unwanted attention. Just before we opened *The Last Confession* in London, I received a call from my agent Alan Brodie saying that letters had been received accusing me of infringing David Yallop's book, *In God's Name, An Investigation Into The Murder Of Pope John Paul I*. The letters had been sent on behalf of an entity called Poetic Products Limited ("Poetic Products"), who claimed to own the copyright to Yallop's book.

13. Approximately one week later, I received a letter dated June 22, 2007 from Hextalls, the English law firm representing Poetic Products, which attached a thick document containing color-coded allegations of Act I of *The Last Confession*'s copyright infringement of *In God's Name*. (See Exhibit A.) Several more letters followed, including a non-color coded document alleging Act II's infringement of *In God's Name*. (See Exhibit B.)

14. Several more letters went back and forth, and then Hextalls sent another letter contending I had infringed *In God's Name* and directing me not to enter into any movie deal without their consent.

15. On November 9, 2007, I sent a letter to Hextalls in response to Poetic Products' allegations listing my sources for the various facts I used to write my play. (See Exhibit C.)

CONCLUSION

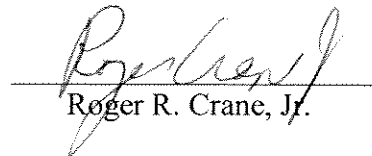
16. Poetic Products effectively placed a cloud over my title, both in the England and in the United States. A number of producers and directors in New York and Los Angeles had expressed interest in both a Broadway theatrical production and a Hollywood film. Instead of celebrating the news, I was frustrated by the knowledge that I could not proceed with a film and might in fact lose those opportunities, and will probably be unable to do a theatrical production in the U.S. while accusations of copyright infringement are left unresolved.

17. One of those individuals interested in *The Last Confession* was producer Michael Brandman, who told me that while he was interested in optioning my play, he was unable to proceed at the advice of counsel until such time as my legal issues with David Yallop were resolved. (See Exhibit D.)

18. I therefore respectfully ask that the Court issue a Declaratory Judgment that my play, *The Last Confession*, does not infringe the copyright of *In God's Name* under the applicable laws, and that Poetic Product's counterclaims based on allegations of copyright infringement be dismissed.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury the forgoing is true and correct.

Executed on this 13th day of November, 2007


Roger R. Crane, Jr.